

CITY COUNCIL AGENDA

SEPTEMBER 10, 2002

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
GEORGE SHIRAKAWA, JR.
DAVID D. CORTESE
JOHN DIQUISTO
PAT DANDO

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

- **Call to Order and Roll Call**
9:00 a.m. Closed Session, Room 600, City Hall
Absent: Vice Mayor Shirakawa, Jr. (excused)

1:35p.m. Regular Session, Council Chambers, City Hall
Absent: Vice Mayor Shirakawa, Jr. (excused)
- **Invocation (District 8)**
Reverend Ellen Grace O'Brian, along with Pattie Cortese, Michael Scott, Maheen Adeeb, Meena Corbin and Hanry Liem from the Center for Spiritual Enlightenment delivered the invocation.
- **Pledge of Allegiance**
Mayor Gonzales led in the Pledge of Allegiance.
- **Orders of the Day**
Approved.

1 CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Timothy Linh Bui, the director of the Green Dragon, a story of the first exodus of the Vietnamese people to America and their lives at camp Pendleton while waiting for new homes. (Reed, Mayor)
Joining Mayor Gonzales at the podium was Timothy Linh Bui's mother Mrs. Bui to accept the commendation and to read a thank you letter from for her son who was unable to attend.
- 1.2 Presentation of a commendation to the men and women of the 23rd Fighter Group for their service, dedication, and sacrifice in the war against terrorism. (Reed)
Council Member Reed joined Mayor Gonzales at the podium to introduce his daughter Captain Kim Campbell who will present the commendation to men and women of the 23rd Fighter Group for their efforts against terrorism.

2 CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None.
- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 26723 – Grants a Commercial Solid Waste and Recyclables Collection Franchise to Mesloh Demolition and Recycling.

Ordinance No. 26723 adopted.

2 CONSENT CALENDAR

2.3 Approval of an agreement for environmental consultant services at the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with The Source Group, for environmental consultant services at the Norman Y. Mineta San José International Airport, increasing the maximum amount of the agreement by \$180,000, from \$99,000 to \$ 279,000, and extending the term of the agreement from May 10, 2003 to June 30, 2003. CEQA: Resolution No. 67380, PP02-68-221. (Airport)

Resolution No. 71200 adopted.

2.4 Approval of the third amendment to the legal services agreement.

Recommendation: Approval of the third amendment to the legal services agreement with Bingham McCutchen to provide real estate legal services for the Boards, increasing the compensation by \$275,000, for a total agreement amount not to exceed \$800,000. CEQA: Not a Project. (Boards of Administrations for Federated City Employees' Retirement System and Police & Fire Department Retirement Plan)

Approved.

2.5 Approval of an agreement related to a proposed sports fields complex in the Almaden Valley Urban Reserve.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Almaden Youth Association to engage qualified consultants to prepare and provide preliminary planning reports related to a proposed sports fields complex in the Almaden Valley Urban Reserve, in an amount not to exceed \$50,000.
- (b) Adoption of the following appropriation ordinance amendments in the Council District 10 Construction and Conveyance Tax Fund:
 - (1) Establish an Almaden Winery Center Conversion Project for \$515,000.
 - (2) Decrease the Reserve: Park Acquisition and Development Project by \$515,000.
- (c) Adoption of the following appropriation ordinance amendments in the General Fund:
 - (1) Establish a McKean Road Sports Complex Project for \$550,000.
 - (2) Decrease the Almaden Winery Center Conversion Project by \$515,000.
 - (3) Decrease the General Fund Contingency Reserve by \$35,000.

Council District 10. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/Budget Office)

Deferred to 9/17/02.

2 CONSENT CALENDAR

2.6 Approval of open purchase orders for the purchase of supplies, materials, equipment, and services.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2002-2003 #5, and authorization for the Director of General Services to execute the purchase orders. (General Services)

Approved.

2.7 Approval of an operations and maintenance agreement with VCHF.

Recommendation: Approval of an Operations and Maintenance Agreement between the City of San José and the Vietnamese Cultural Heritage Foundation (VCHF) for an initial term of 15 years, with up to two additional extension terms of five years each. CEQA: Resolution No. 66098. (Parks, Recreation and Neighborhood Services)

Approved.

2.8 Approval to initiate proceedings and set a public hearing to consider a historic landmark.

Recommendation: Adoption of a resolution to:

- (a) Initiate proceedings to consider The 5 Spot as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature.
- (b) Set a public hearing on October 29, 2002 at 1:30 p.m.
- (c) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.

CEQA: Exempt. Council District 3. SNI: Washington. (Planning, Building and Code Enforcement)

Resolution No. 71201 adopted.

2.9 Approval of an agreement for landscape architectural consultant services for various park and recreational projects.

Recommendation: Approval of a fourth amendment to the master agreement with Callander Associates Landscape Architecture Inc. for landscape architectural consultant services for various park and recreational projects, extending the term from September 30, 2002 to September 30, 2003, and increasing the total compensation by an additional amount not to exceed \$25,000, for a total agreement amount not to exceed \$310,000.

CEQA: Not a Project. (Public Works)

Approved.

END OF CONSENT CALENDAR

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No report.

3.2 Report of the Rules Committee – August 28, 2002

Vice Mayor Shirakawa, Jr., Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
The Redevelopment Agency items to be reported out at Redevelopment Agency Board meeting.

- (b) City Council

- (1) Review September 10, 2002 Draft Agenda
The Committee recommended approval of the September 10, 2002 Council agenda with two additions.

- (2) Add New Items to September 3, 2002 Amended Agenda
The Committee recommended five additions and one deferral to the September 3, 2002 Council agenda.

- (c) City Council Committees

- (1) Amendments to Council Committee Agendas

- (a) Finance and Infrastructure Committee
The Committee recommended an addition to the September 11, 2002 agenda entitled, “An audit of the School Age Growth and Enrichment Program of the Department of parks, Recreation and Neighborhood Services (Auditor).”

- (b) Economic Development and Environment Committee
None filed.

- (c) Education, Neighborhoods, Youth, and Seniors Committee
None filed.

- (d) Meeting Schedules

There were none.

- (e) The Public Record

The Committee noted and filed the Public Record.

- (f) Boards, Commissions and Committees

There were none.

This Item continued on the next page.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – August 28, 2002 (Cont'd)

- (g) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
 - (1) Request for a review of park ranger staffing levels
The Committee directed the City Manager to review park ranger staffing levels and to create a plan to attract and retain park rangers.
 - (2) Request to conduct a financial audit of the Santa Clara County Cities Association
The Committee directed the City Auditor to conduct a financial audit of the Santa Clara County Cities Association for the period July 2, 2000 through June 30, 2002 and to make assessments of potential City of San Jose assisted cost saving measures.
- (h) Administrative Reviews and Approval
 - (1) Workload assessment to modify the Municipal Code in regard to posting notice of tree removal
The Committee deferred this item to next week's Rules Committee meeting.
 - (2) Approve request to use Council General funds by Council Member Cortese to meet with CEO of Olympic Committee in Denver, CO, August 26-27, 2002
The Committee recommended approval for use of Council General funds by Council Member Cortese to meet with the CEO of Olympic Committee in Denver, CO, August 26-27, 2002.
- (i) Oral communications
None were presented.
- (j) Adjournment
The meeting adjourned at 2:15 P.M.

The Rules Committee Report and actions of August 28, 2002 were accepted.

3.3 Report of the Finance and Infrastructure Committee – August 28, 2002

**Council Member Dando, Chair
Meeting Canceled.**

3 STRATEGIC SUPPORT SERVICES

3.4 Approval of the renaming of the Compaq Center at San José.

Recommendation: Adoption of a resolution authorizing the City Manager to approve renaming of the Compaq Center at San José to the HP Pavilion at San José, negotiate and execute any amendments or agreements necessary to effect the name change, at no cost to the City and subject to the Manager's review and approval of any interior or exterior, signage changes. (Mayor)
(Orders of the Day)

Resolution No. 71202 adopted.

Noes: LeZotte.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Economic Development & Environment Committee Council Member Williams, Chair

No report.

4.2 Public Hearing on the 2001-2002 Consolidated Annual Performance Evaluation Report.

Recommendation: Open the Public Hearing, for public review and comment, on the 2001-2002 Consolidated Annual Performance Evaluation Report (CAPER). CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)

Public hearing opened.

Continued to 9/24/02.

4.3 Approval of an ordinance adopting the Uniform Building Codes.

Recommendation: Approval of an ordinance to amend Title 24 of the San José Municipal Code:

- (a) To adopt the 1997 edition of the Uniform Building Code (UBC) with eight local amendments, the 2000 editions of Uniform Plumbing Code (UPC), and Uniform Mechanical Code (UMC), and the 1999 edition of the National Electrical Code (NEC) with no amendment, as the City of San José Building, Plumbing, Mechanical, and Electrical Codes; and
- (b) To adopt the 1997 edition of the Uniform Code for Building Conservation (UCBC) Chapter 5 and Appendix Chapters 1, 5, and 6 with no amendments.

CEQA: Exempt, PP02-08-220. (Planning, Building and Code Enforcement)

Approved with comments included in Mayor Gonzales and Council Member Yeager's memo dated 9/9/02.

Ordinance No. 26729 passed for publication.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.4 Public Hearing and adoption of a resolution conditionally vacating a portion of the public service easement in previously vacated King Road, south of Berryessa Road.

Recommendation: PUBLIC HEARING and adoption of a resolution conditionally vacating a portion of the public service easement in previously vacated King Road, south of Berryessa Road. CEQA: Negative Declaration, PP 00-12-096. Council District 4. (Public Works)

Public hearing held.

Resolution No. 71203 adopted.

4.5 Approval of various actions related to the San José Civic Center Project.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to determine the responsibility of contractors eligible to bid for particular work, award to the lowest responsible bidder public works contracts, execute related change orders and manager contingencies for the San José Civic Center Project not to exceed the project construction budget of \$192 million. CEQA: Resolution No. 68905. Council District 3. SNI: University. (Public Works)

Resolution No. 71204 adopted.

- (b) Approval of deductive Contract Change Order No. 1 for the San José Civic Center Shoring and Mass Excavation Project in the amount of \$185,500, resulting from an alternative means for dewatering. CEQA: Resolution No. 68905. Council District 3. SNI: University. (Public Works)

Approved.

- (c) Approval of deductive Contract Change Order No. 2 for the San José Civic Center Shoring and Mass Excavation Project in the amount of \$233,295, resulting from the City providing a closer disposal site for clean soil excavated from the project site. CEQA: Resolution No. 68905. Council District 3. SNI: University. (Public Works)

Approved.

This Item continued on the next page.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.5 Approval of various actions related to the San José Civic Center Project. (Cont'd)

Recommendation:

- (d) Approval of a third amendment to the agreement with Turner Construction Company for construction management services in connection with the New Civic Center Project, revising the scope of work to provide for services through completion of the project, extending the term to April 30, 2006, revising the insurance requirements, approving an assignment of the agreement to Turner/Devcon, a joint venture of Turner Construction Company and Devcon Construction Incorporated, and increasing compensation by \$26,389,600, for a total contract amount of \$29,365,600 which includes \$2,976,000 for the already completed design phase, \$19.9 million for construction management services with an 'at risk' provision and up to \$6,489,000 for City-approved construction cost savings achieved by the joint venture. The joint venture will be 'at risk' for up to \$3.75 million if budget and schedule are not achieved. CEQA: Exempt, PP02-09-237. Council District 3. SNI: University. (Public Works)

Approved.

- (e) Report on bids and award of contract for the San José Civic Center Pre-Cast Concrete Piles Project to the low bidder, Foundation Constructors, Inc., in the amount of \$2,398,950, and approval of a contingency in the amount of \$201,050. CEQA: Negative Declaration, Resolution No. 68905. Council District 3. SNI: University. (Public Works)

(Rules Committee referral 9/4/02)

Approved.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the Education, Neighborhoods, Youth, and Seniors Committee Council Member Chavez, Chair

No report.

5.2 Approval to establish the Happy Hollow Zoo/Paul Chaffee State Grant.

Recommendation: Adoption of appropriation ordinance and funding sources resolution amendments in the City-wide Construction and Conveyance Tax Fund establishing the Happy Hollow Zoo/Paul Chaffee State Grant appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$270,050. CEQA: Not a Project. (City Manager's Office)

Ordinance No. 26730 adopted.

Resolution No. 71205 adopted.

6 TRANSPORTATION SERVICES

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

8.1 Approval of a grant for the Airport Acoustical Treatment.

Recommendation: Adoption of a resolution authorizing the City Manager to apply for, and execute upon receipt, a grant with the Federal Aviation Administration (FAA) for the Airport Acoustical Treatment (ACT) Program Category 1B expanded treatment area, in the amount of \$8,000,000. CEQA: Resolution No. 67380. (Airport)
(Rules Committee referral 9/4/02)

Resolution No. 71206 adopted.

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

REDEVELOPMENT AGENCY BOARD CONVENED TO CONSIDER ITEM 10.1 IN A JOINT SESSION

10.1 Public Hearing on a condominium development on land located at 2191 Alum Rock Avenue.

Recommendation:

- (a) Adoption of a resolution by the City Council approving the sale of the project site (located at 2191 Alum Rock Avenue) to Ketzal Community Development Corporation (Ketzal), accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the property will provide housing for low-income persons, is consistent with the Implementation Plan for the San José Merged Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA).
- (b) Adoption of a resolution by the City Council and Agency Board approving the DDA between the City of San José, the Redevelopment Agency, and Ketzal for the development of a for-sale affordable housing project to be located at 2191 Alum Rock Road, and authorizing the City Manager and the Executive Director to negotiate and execute amendments to the DDA as may be reasonably required by the Developer's lender, and authorizing the City Manager to convey the property to Ketzal once the conditions of conveyance have been met.

(Housing)

(Deferred from 9/3/02 – Item 10.1)

Dropped.

- **Closed Session Report**

None.

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9229	NE corner of Aborn Road & Altamara Avenue	8	Shapell	70 lots	Single Family Detached	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

None.

- **Open Forum**

1. **Chun Lee commented on the progress of Falun Gong.**
2. **Pete Campbell commented on the 23rd Fighter Group.**

- **Adjournment**

The Council of the City of San Jose adjourned at 3:10 in memory of Dr. B. Roberto Cruz, founder of National Hispanic University.

The Joint Redevelopment Agency Council convened at 3:50 to hear item 7.1.

7 JOINT REDEVELOPMENT AGENCY/COUNCIL

7.1 Approval of the first amendment to the SBLP for building owners and tenants in the downtown and the Neighborhood Business Districts.

Recommendation: Adoption of resolution by the City Council and Agency Board approving the first amendment to the Small Business Loan Program (SBLP), which provides reduced-rate financing, targeted to downtown and Neighborhood Business Districts, making the total annual receipts program guidelines consistent with the federally established Small Business Association guidelines. (MERGED)

Resolution No. 71207 adopted.

Agency Board Resolution No. 5347 adopted.

The Joint Redevelopment Agency Council adjourned at 3:51.